HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE S.ANANDA REDDY

WRIT PETITION No:5278 OF 2007

Dated: 04.06.2007

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Between:

Md. Yakub Pasha ..Petitioner

And

1. Senior Divisional Personnel Officer
South Central Railway, Sanchalan Bhavan,
Secunderabad Division, Secunderabad and another.
..Respondents

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HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE S.ANANDA REDDY

WRIT PETITION No:5278 OF 2007

ORDER: (per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition has been filed by the petitioner questioning the order, dated 8.3.2006 in O.A.No.466 of 2004, passed by the Central Administrative Tribunal, Hyderabad.

It is the case of the petitioner who is the applicant therein that he was working as Goods Driver in the grade of Rs.5000-8000. At that time, a minor penalty charge memo dated 3.8.2001 was issued. On 28.9.2001, punishment of reduction of pay from 5,900/-to 5,750/- in the grade of Rs.5000-8000 for a period of two years was imposed on the applicant. The appellate authority set the said punishment aside. In the meantime, the respondents ordered promotion to the post of Senior Goods Driver in the scale of 5500-9000 and promoted 49 Goods Drivers including juniors to the applicant, but the case of the applicant was not considered on the ground that he was undergoing punishment of reduction of pay. The applicant was called for selection for formation of panel to the post of Driver Passenger in grade 5500-9000 and a panel consisting of 35 candidates was published vide proceedings dated 23.4.2002 and in the said panel, his name was not included. The respondents promoted the applicant to the post of Senior Goods Driver vide order, dated 21.6.2002 with immediate effect. It is the case of the petitioner that he was denied promotion on par with his juniors and subsequently, he was promoted as Driver Passenger in the grade of Rs.5500-9000 vide proceedings dated 24.9.2003. Therefore, the petitioner filed the O.A. seeking a direction to the respondents to give effect to the promotion ordered to the post of Senior Goods Driver in scale of 5500-9000 on par with his juniors.

On the other hand, the respondents contended in the above O.A., that the name of the applicant was not included in the panel as he was not in the zone of consideration and subsequently, he was empanelled as Driver Passenger vide proceedings dated 26.3.2002

and thus, the petitioner was considered for the post of Driver passenger along with the other eligible candidates.

On hearing the rival contentions, the tribunal having observed that the case of the applicant was considered for the post of Driver passenger along with the other eligible candidates and the applicant was not found to be within the zone of consideration, and subsequently, he was again called for selection and was in fact selected and promoted vide order dated 24.9.2003, rejected the O.A. Questioning the same, the present writ petition is filed.

Before going to the merits of the case, it is pertinent to note that the post of Senior Driver Goods is a non selection post and the same will be filled on the basis of the seniority-cum-suitability. In the same process, at the time of promotion to the post of Senior Driver Goods in Scale of Rs.5500-9000, the case of the applicant was considered for promotion to the said post along with his juniors, but he was declared as unsuitable for promotion and thereby, his name was not included.
At this stage, it is the contention of the learned counsel for the respondent that the case of applicant could not be considered only due to non suitability, but not due to the pendency of any Disciplinary proceedings.

According to the respondents, in so far as the post of driver passenger is concerned, the same is a selection post, for which the applicant was also called for, but the name of the applicant was not included in the panel on the ground that he was not in the zone of consideration for empanelment for the post of driver passenger and that subsequently, on the last occasion, the applicant was again called for selection and selected and promoted as per the proceedings dated 24.9.2003.

In the light of the above events, it can easily be inferred that for the above selection post, the applicant has participated in the selection on all the occasions, but he was found not suitable prior to the proceedings dated 24.9.2003. In this view of the matter, We feel that

the tribunal is justified in rejecting the claim of the applicant. We see no merits in this writ petition and the same is liable to be dismissed.

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Justice T. Meena Kumari

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Justice S. Ananda Reddy

Date: 4th June, 2007
Gurc/nn

HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE S.ANANDA REDDY

WRIT PETITION No:5278 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

04/06/2007

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CIVIL REVISION PETITION No:744 OF 2005

28.1.2006